

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON AGRICULTURE

Call to Order: By **CHAIRMAN DIANE RICE**, on February 25, 2003 at 3:00 P.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Diane Rice, Chairman (R)
Rep. Verdell Jackson, Vice Chairman (R)
Rep. Ralph Lenhart, Vice Chairman (D)
Rep. Joan Andersen (R)
Rep. Norman Ballantyne (D)
Rep. Bob Bergren (D)
Rep. Norma Bixby (D)
Rep. Carol Lambert (R)
Rep. Bruce Malcolm (R)
Rep. Jim Peterson (R)
Rep. Brennan Ryan (D)
Rep. Veronica Small-Eastman (D)
Rep. Frank Smith (D)
Rep. Donald Steinbeisser (R)
Rep. Bill Thomas (R)
Rep. Karl Waitschies (R)

Members Excused: None.

Members Absent: None.

Staff Present: Lisa Gallagher, Committee Secretary
Krista Lee Evans, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Tape stamp refers to material immediately following.

Committee Business Summary:

Hearing & Date Posted: HB 676, 2/19/2003; HB 677,
2/19/2003; HB 678, 2/19/2003; HB
683, 2/19/2003; HB 717, 2/19/2003;
HB 720, 2/20/2003; HB 723, 2/21/03

Executive Action: HB 676; HB 677; HB 678; HB 683; HB
717; HB 720; HB 723

HEARING ON HB 676; HB 677; HB 678

Sponsor: REPRESENTATIVE MONICA LINDEEN, HD 7, Huntley

Opening Statement by Sponsor:

{Tape: 1; Side: A; Approx. Time Counter: 0 - 5.2}

REP. LINDEEN said that these bills relate to the 310 law. These three bills fall into three categories. House Bill 676 is a rewording of the definition of the word "project." There has been some misinterpretation of this definition, and this bill clears that up. There is an amendment to this bill.

EXHIBIT (agh42a01)

House Bill 677 makes justice court the appropriate court to hear 310 violations. There is also an amendment to this bill, that sets a \$7,000 amount for deciding where the case should be heard.

EXHIBIT (agh42a02)

House Bill 678 gives the authority to declare jurisdiction.

Proponents' Testimony:

Don MacIntyre, Attorney DNRC, said that the purpose of HB 678 is to set out the statutory framework for the conservation districts. This allows for an appeal to the district court. House Bill 676 requires that if there is a plan to alter the bed stream, there must be a permit. This bill just helps clarify the law. House Bill 677 says that there will be three ways that the law will be enforced.

Gay Easton, Yellowstone Conservation District, stated that they are in support of these bills.

LaVerne Ivie, Yellowstone Conservation District, said that the local conservation districts have passed these laws and she handed out to the Committee some information on conservation districts.

EXHIBIT (agh42a03)

John Bloomquist, Attorney Montana Stock Growers Association, said that these bills set out a process for jurisdiction. If the amount is over \$7,000 then the case will be handled in district court and not justice of the peace court. He said that they are in full support of these bills as amended.

Bob Lane, Fish, Wildlife & Parks, said that they are in full support of all of these bills. He also said that FWP is usually involved with the conservation districts.

Opponents' Testimony: none

Questions from Committee Members and Responses:

REP. MALCOLM asked Don MacIntyre why all the dates were retroactive. **Don MacIntyre** said that is if you have an application in now you can take advantage of these bills.

REP. WAITSCHIES asked Don MacIntyre what the definition of a "project" was in real terms. **Don MacIntyre** said that if you build a subdivision and you need to get over a stream and you build a bridge that affects the banks that is a project.

REP. WAITSCHIES asked Don MacIntyre if he wanted to put a ramp in a creek, would he need a permit? **Don MacIntyre** said that according to current law you would need a permit.

{Tape: 1; Side: A; Approx. Time Counter: 21.4 - 23}

REP. ANDERSON asked Don MacIntyre if there are irrigation ditches that are fed by a river and the river gets to low and there is altering of the stream bed to get more water, is this a project? **Don MacIntyre** said, "Yes, that is a project and first you should get a permit under the 310 law."

REP. ANDERSON asked Don MacIntyre if under Section II do you need to get a permit if you are only working in the stream bed every ten years. **Don MacIntyre** said that if you are doing major work then you need a permit.

REP. ANDERSON asked LaVerne Ivie how long it takes to get a permit. **LaVerne Ivie** said that is takes anywhere from 30 to 90 days.

REP. ANDERSON said that all the crops would be dried up. **LaVerne Ivie** said that they have an emergency provision.

Closing by Sponsor:

REP. LINDEEN said that the conservation districts have done good work for many years, and she urged a DO PASS on these bills.

{Tape: 1; Side: A; Approx. Time Counter: 26.9 - 30}

HEARING ON HB 720

Sponsor: REPRESENTATIVE DANIEL HURWITZ, HD 40, White Sulphur Springs

Opening Statement by Sponsor:

REP. HURWITZ read through the title of the bill and then went on to read the new sections of the bill. He said that there are applications that have been in the process for two years and nothing has happened. People are being put on hold and the crops are drying up.

Proponents' Testimony:

{Tape: 1; Side: B; Approx. Time Counter: 0 - 3.5}

Elmer Hanson, Rancher, said that the Department has let the applications stack up and now it is a disaster. This problem should have been taken care of along time ago.

Robert Dupea, Rancher, said that there are eight wells in the White Sulphur Springs area that are still waiting because of the application process. All of these wells have gone through the application process, but still do not have permits.

{Tape: 1; Side: B; Approx. Time Counter: 3.6 - 10.7}

John Bloomquist, Attorney Montana Stock Growers Association, said that it is time to develop rules and put a time frame on the Department. Some of the applications are two years old. The Department needs to put some rules together so that the applications are done in a timely fashion. This is a good bill that will make a big difference and will place limitations on the Department.

Jim Lippert, Big Timber, said that this bill rectifies all the problems that the Department has caused. The Department of Natural Resources and Conservation (DNRC) deemed one application incomplete after one year. This created a bottleneck and subjected all the other applications to reexamination.

Nancy Schlepp, Montana Farm Bureau, said that this bill helps clarify. It evens out the process and brings back the innocent until proven guilty standard. Their members want this bill because they would like to know where their permits are.

Joe Michaletz said that this bill provides guidelines to the Department with time constraints.

Opponents' Testimony:

{Tape: 1; Side: B; Approx. Time Counter: 17.4 - 26.7}

Bob Lane, Fish, Wildlife, & Parks, submitted his written testimony.

EXHIBIT (agh42a04)

Matt Clifford, Montana Trout Unlimited, said that they are opposed to this bill because it affects their lease water rights throughout the state and also because they are users of the water, and this bill is a threat to both of those. This bill singles out just one class of water users.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 5.1}

Matt Clifford gave an example of how this would affect a farmer or a rancher if they were trying to irrigate their land. When there is a reexamination of the quality of the water rights, uncertainty is created. There are new water rights for the Basin River because this is a closed area and that way the rights of the existing water right owners are protected.

Holly Franz, Water Right Attorney, said that she is concerned with the 30 day maximum. The DRNC look at deadlines that are currently in code as suggestions. The language in Section 2 needs to be considered because water rights are a property right.

Mike McLane said that to meet the test for an application is harder today than it ever has been.

Informational Testimony:

Jack Stults, DNRC, said that the fiscal note is because of the 30-day requirement. The applications take a long time because the process is front loaded to protect existing water rights. He handed out to the Committee, a Montana Surface Water Closure and Controlled Groundwater Areas Map, and a FTE history for the Water Resources Division.

EXHIBIT (agh42a05)

EXHIBIT (agh42a06)

Questions from Committee Members and Responses:

REP. JACKSON asked **REP. HURWITZ** if this just applied to ground water. **REP. HURWITZ** said it applies to all water rights.

REP. JACKSON asked **Mike McLane** if the 30-day time period is reasonable. **Mike McLane** said that all the applications come in

about 45 days before drought and this puts the Department behind.

REP. JACKSON asked Jack Stults the same question. **Jack Stults** said that it varies with the application, the area, and other things. It depends on the complexity of the project.

REP. JACKSON asked Jack Stults what is required to drill a well. **Jack Stults** said that there needs to be information on the potential impact of the well before you can drill.

REP. JACKSON asked Jack Stults if it is possible to separate the complex applications from the simple in the 30-day period. **Jack Stults** said there are ways to decide if an application is going to be complex or easy, but they usually do not separate the applications. They take them as they come in the door.

REP. JACKSON asked Jack Stults what the average time for an application was. **Jack Stults** said that it varies, but anywhere from nine months to two years.

REP. PETERSON asked John Bloomquist if he would respond to the 30-day issue, and the requirements in Section 2 of the bill. **John Bloomquist** said that there has to be a time frame on this stuff. There needs to be a deadline. To identify where you think you are hurt in regard to water rights is not a new concept, it is already in code. The water right holder does not have right to the specific water flow.

REP. PETERSON asked John Bloomquist what a reasonable time frame is. **John Bloomquist** said that the fact that the Department must notify the applicant within 30 days of receiving the application is not that difficult of a burden. It could be moved to 60 days to give sometime to look them over for defects.

{Tape: 2; Side: B; Approx. Time Counter: 0 - 3.6}

REP. PETERSON asked Jack Stults if he would address the fiscal note. **Jack Stults** said that in figuring out the fiscal note the Department did not assume any change. They took the status quo and compressed it to 30 days.

REP. PETERSON asked Jack Stults how 60 days would affect the fiscal note. **Jack Stults** said that it is difficult to say.

REP. LAMBERT asked Jack Stults if it is true that you need to drill a test well to be able to then drill a well. **Jack Stults** said not necessarily, there is information that you can get from

other applications or from the Bureau of Mines and Hydrology in Butte.

REP. SMALL-EASTMAN asked Jack Stults if the federal funds from the drought relief will be used for these people. **Jack Stults** said that the money from the drought relief goes to the recipients of the drought damage, and not to these people.

REP. WAITSCHIES stated that Section 2 of this bill is a major change and he asked **REP. HURWITZ** if he would be opposed to deleting Section 2. **REP. HURWITZ** said it is important and the ranchers need help. This bill needs to be realistic, and lines 24-30 are the heart of the bill.

REP. WAITSCHIES asked **REP. HURWITZ** what a reasonable time would be. **REP. HURWITZ** said that he would be uneasy answering that question.

REP. PETERSON asked Holly Franz if she would help the Committee find a solution. **Holly Franz** said that standardizing the criteria for all the regional offices of the DNRC throughout the state is a good idea. This will get all the offices on the same page. There is already in statute a 180 day limit, but it is not effective, and not substantive.

REP. PETERSON asked John Bloomquist if he would help the Committee find a solution. **John Bloomquist** said that he concurs with what Holly Franz said.

REP. JACKSON asked Bob Lane if the water rights only apply for a certain amount of time. **Bob Lane** said that water rights are based on a year for the whole year.

REP. JACKSON asked Bob Lane if in Section 2 there was a place for compromise, and if he could clarify what is done by the objector. **Bob Lane** said that they need to show burden of proof.

REP. RICE asked Jack Stults how many applications the Department receives per year. **Jack Stults** said about 1,500.

REP. RICE said the Department has 109 employees. **Jack Stults** said, "Yes, and they deal with water rights, dam safety, flood plain, and watershed issues." They have a many responsibilities. The Department only has 14 employees that work on applications.

REP. RICE asked Jack Stults why it would take one year to look over an application. **Jack Stults** said that the Department has a back log right now.

Closing by Sponsor:

REP. HURWITZ said that this bill is so that people can get permits for wells within a time frame. This makes sense, and he urged a DO PASS.

HEARING ON HB 683

Sponsor: REPRESENTATIVE JOHN BRUEGGEMAN, HD 74, Polson

Opening Statement by Sponsor:

{Tape: 2; Side: B; Approx. Time Counter: 23.5 - 25.7}

REP. BRUEGGEMAN said that this bill is in response to a problem in Charlo. The city needs a redundant well. This is a well that will be drilled in the same place and is not a change of use. Charlo received a grant to drill a new well for the city and because of permit laws they have not been able to drill their well. Without this bill the city will not be able to drill a well to provide water for the residents of their community.

Proponents' Testimony:

Jack Stults, DNRC, said that they are in full support of this bill, and it applies statewide. This bill provides for an exemption for the point of diversion, but only for redundant wells.

{Tape: 3; Side: A; Approx. Time Counter: 0 - 2.8}

Jack Stults also said that this is a safe system that is fail proof. This bill is important because it protects and maintains the public's safety.

Jay Niemeyen, Charlo, said that they received a grant from the DNRC to drill a well, and they cannot use it because of the law. Currently the city of Charlo is using a back-up well that is really old, when the primary well kicks out. They would like to get the new well done.

John Tubs, DNRC, said that he works with the grants and loans part of the DNRC and he issued the grant to the city of Charlo. This bill will help out a lot of communities. In the city of Charlo there are two wells, one good one, and the other is old. If the city does not drill a new well there is a public health concern.

Opponents' Testimony:

George Ochenski, Confederated Salish-Kootenai Tribe, read a letter to the Committee from the Confederated Salish-Kootenai Tribes of the Flathead Nation.

EXHIBIT (agh42a07)

Questions from Committee Members and Responses:

REP. SMITH asked George Ochenski, "How far along is the water compact?" **George Ochenski** said that they have been working on it for a long time. The tribes have won the Supreme Court cases, but now the federal government is involved and there are very complex negotiations going on.

REP. PETERSON asked Jack Stults without this bill what the city of Charlo will do. **Jack Stults** said that they struggle along with their current system and hope that there are no public health breakouts.

REP. LENHART asked Jack Stults, "How far apart are the wells?" **Jack Stults** said that it depends on the system that is operated by the municipality. They try and make them fairly close to reduce costs.

REP. LENHART asked Jack Stults if the wells were drawing from the same source. **Jack Stults** said, "Yes."

Closing by Sponsor:

{Tape: 3; Side: A; Approx. Time Counter: 19.3 - 20.6}

REP. BRUEGGEMAN said that the city of Charlo is asking for a small request and urged a DO PASS.

HEARING ON HB 717

Sponsor: REPRESENTATIVE JOEY JAYNE, HD 73, Arlee

Opening Statement by Sponsor:

REP. JAYNE said that what this bill does is increase the penalties for an offense of cruelty to animals. For the first offense a judge may order a fine of no more than \$500 and it also adds a mandatory one day jail sentence if convicted. For the second offense there is a fine of no more than \$1,000 and a mandatory seven day jail sentence, which is not suspended. It is

obvious that present law is not effective so that is why there is a need for this bill.

Proponents' Testimony: none

Opponents' Testimony: none

Questions from Committee Members and Responses:

{Tape: 3; Side: A; Approx. Time Counter: 28.1 - 30}

REP. PETERSON asked **REP. JAYNE** why, if **REP. GALLIK's** bill passed, should the Committee pass this bill. **REP. JAYNE** said that she agreed with **REP. PETERSON** and she considered pulling this bill but didn't.

{Tape: 3; Side: B; Approx. Time Counter: 0 - 1.3}

Krista Lee Evans explained to the committee about what the process is when two bills that are the same in nature pass both houses and are signed into law.

REP. SMALL-EASTMAN asked **REP. JAYNE** if lines 23 through 30 were part of **REP. GALLIK's** bill. **REP. JAYNE** said that his bill has increased the fines, and it changes the \$500 fine to a \$1,000 fine.

{Tape: 3; Side: B; Approx. Time Counter: 3.2 - 4.4}

REP. LAMBERT asked **REP. JAYNE** what the difference between aggravated cruelty and cruelty is. **REP. JAYNE** read the definition of aggravated cruelty from **REP. GALLIK's** bill.

Closing by Sponsor:

REP. JAYNE said that it may be worth looking at the differences in her and **REP. GALLIK's** bill and having a coordinating committee look at it.

HEARING ON HB 723

Sponsor: REPRESENTATIVE JOHN MUSGROVE, HD 91, Havre

Opening Statement by Sponsor:

{Tape: 3; Side: B; Approx. Time Counter: 6.2 - 14}

REP. MUSGROVE said that this bill is at the request of the House Joint Appropriations Sub-Committee on Natural Resources. This bill will stream line the petroleum tank release compensation fund. It will improve accountability and provide for checks and balances. He handed out charts, a fiscal note, and an amendment to the Committee.

EXHIBIT (agh42a08)

EXHIBIT (agh42a09)

EXHIBIT (agh42a10)

Proponents' Testimony:

REP. JEFF PATTISON, HD 95, Glasgow, said that there has been seven instances where the board has overturned the decisions of the staff. The role of the board needs to be addressed. By moving the board to the DEQ, it is not being done away with, the process is still there, it is just under the DEQ.

Jan Sensibaugh, Director of the Department of Environmental Quality (DEQ), said that this bill will allow three things; 1) permit, 2) instruction, 3) reimbursement. This bill only deals with the board, not the fund or what it is used for. Currently the board makes the decisions and the Department makes the final decision.

Mark Simonich, Director of the Department of Commerce, said that if this board is moved under the DEQ it will be made up of seven members, five of whom will be appointed by the Governor, and the other two are statutory. He said that he used to be the Director of the DEQ and he knows that there is a need for this bill. He is in full support of this bill, because there is no need for a separate board, it should be with the DEQ.

Opponents' Testimony:

{Tape: 4; Side: A; Approx. Time Counter: 0 - 14.5}

Earl Griffith, Tetra Tech Inc, gave the Committee an extensive history of the Petroleum Tank Release Board. He went on to say that if the board is eliminated it becomes an appellant board where problems are taken. He gave the Committee examples of cases where the board had said that they were wrong in some cases and changed their opinions. The board keeps a file in the bureau when there is a problem so that when the public had a problem they know about it. He urged the Committee to table this bill.

Doug Dodge, Town Pump Inc, said that he opposes this bill for two main reasons. The first is that the board functions as a buffer

between the citizens and the DEQ. The second is that it provides for checks and balances.

Stewart Blundell, Integrated Geoscience Private Consulting, said that he opposes this bill because it removes diversity and common sense from the decision making process.

Bob Gilbert, Rocky Mountain Propane Dealers, said that this bill would be taking away the buffer between the citizens and the state government.

Ross Cannon, Attorney Oil West Services, submitted his written testimony.

EXHIBIT(agh42a11)

Ronna Christman, MPMCSA, said that this is a seven-member board that is very broad based. Without this board there will be no independent buffer. Currently the board is voluntary and they operate on a \$5,500 budget per year, and the rest of the money is for legal expenses. The Committee should not do away with this board. It functions well, and acts as a buffer.

Questions from Committee Members and Responses:

{Tape: 4; Side: B; Approx. Time Counter: 0 - 3.2}

REP. SMITH asked Earl Griffith if he was a consultant. **Earl Griffith** said, "Yes, I am."

REP. SMITH asked Earl Griffith what does a consultant do. **Earl Griffith** said he provides the professional expertise to assist those operators that have had a spill or a release in determining the best ways to clean up the site.

REP. SMITH asked Earl Griffith if he did any of the clean up himself. **Earl Griffith** said that it depends on what it is, he might, but it is usually contracted out.

REP. SMITH asked Earl Griffith how many consultants are there in Montana. **Earl Griffith** said there are about 50 to 60 consulting companies in the state, and probably about 100 to 150 consultants total.

REP. SMITH asked Earl Griffith why he worked in Wolf Point. **Earl Griffith** said that he was recommended.

REP. THOMAS asked Ronna Christman if this bill does away with the board. **Ronna Christman** said that it does away with the board, but it does not do anyway with the whole fund or the program.

REP. THOMAS asked Ronna Christman what the two recommendations of the audit were. **Ronna Christman** said that their two recommendations were to make the year end projects, and the other one dealt with paying claims without money in the bank account.

REP. LAMBERT asked Bob Gilbert what his plan for the board is. **Bob Gilbert** said that he wanted separation, between the citizens and state government.

REP. LAMBERT asked Ronna Christman if this board is governed by statute or by rule. **Ronna Christman** said that the board is in statute.

REP. LAMBERT asked Ronna Christman if the DEQ was ruled by statute or by rule. **Ronna Christman** said that the DEQ is both in statute and in rule.

REP. WAITSCHIES asked Jan Sensibaugh if this bill would eliminate the Petroleum Tank Release Board and replace the functions with the Board of Environmental Review. **Jan Sensibaugh** said that some of functions like the decisions making process would go to the Department. The appeal and the rule making decisions would become a function of the Board of Environmental Review.

REP. WAITSCHIES asked Jan Sensibaugh what the makeup of the Board of Environmental Review is. **Jan Sensibaugh** said that it is a seven member board that comes from all over the state. There is one member who is a local government specialist, an environmental scientist, a medical doctor, and a hydrologist.

REP. WAITSCHIES asked Jan Sensibaugh if they have staff. **Jan Sensibaugh** said that the Department would provide the staff.

REP. WAITSCHIES asked Jan Sensibaugh if the Petro Board has staff. **Jan Sensibaugh** said, "No."

REP. SMALL-EASTMAN asked Ronna Christman about the reference to making a bad decision about a lawyer. **Ronna Christman** said that the board made a bad decision on legal advice and then they requested a new attorney. They are on their fourth attorney.

REP. ANDERSON asked Jan Sensibaugh if the Department assumes the responsibility of this board how is that handled. **Jan Sensibaugh**

said that there are no additional responsibilities that fall onto the Department, and there will be no additional staff required.

REP. ANDERSON asked Jan Sensibaugh if the Department provided staff to the Petro Board will the Department reduce its staff if this bill passes. **Jan Sensibaugh** said that the Department is looking at their staff, and they can consolidate and they are looking at ways to reduce the staff.

REP. ANDERSON asked Ronna Christman if the responsibilities of the board have been reduced in the last couple of years in response to the declining number of spills. **Ronna Christman** said that she thinks that it has, and everyone has come into compliance.

REP. ANDERSON asked Ronna Christman if the board has not seen a decrease in the work load. **Ronna Christman** said that she did not know how to answer that, and she thinks that they have.

REP. SMITH asked Stuart Blundell if the 24-hour reporting period has been changed. **Stuart Blundell** said that it is still in effect, and if there is a spill Friday night and it is not reported until Monday, because the Department is not in on the weekends, that citizen will be ineligible.

REP. SMITH asked Stuart Blundell what to do on the weekend. **Stuart Blundell** said that there is a hotline that you can call, but the Department is not in on the weekend.

REP. PETERSON asked **REP. MUSGROVE** if this bill was the idea of the House Joint Sub-Committee. **REP. MUSGROVE** said, "Yes."

REP. JACKSON asked Jan Sensibaugh if she thought that the DEQ needed a buffer. Jan Sensibaugh said that the program has been controversial, and she is aware of the reputation of the DEQ. In the past the DEQ has been very rigid, but they have embarked on some new issues, like changing the 24 hour reporting period. They are aware of the problems, and are trying to work through them.

REP. JACKSON asked Jan Sensibaugh what the cost of the board is. **Jan Sensibaugh** said the cost is \$5,500.

REP. JACKSON asked Jan Sensibaugh about the \$1 million worth of equipment that was missing, and if they know where it is at. **Jan Sensibaugh** said that was before her time, but they inventory and she assumes that they do know where it is at. The equipment that was being referenced to is generators, pumps, and other things like that.

REP. RICE asked Mark Simonich if he would like to comment on the board as the Director of the Department of Commerce. **Mark Simonich** said that his position does not change. He said that his goal is to strive for the best government, one that applies justly and fairly.

REP. RICE asked Mark Simonich if the buffer zone would apply to the DEQ. **Mark Simonich** said that the Department has nothing to gain, and so it won't apply.

Closing by Sponsor:

{Tape: 5; Side: A; Approx. Time Counter: 6.7 - 7}

REP. MUSGROVE said that both boards have common sense, and the question is which board will best suite the situation. He said that the board under the DEQ meets all the concerns, and is the best choice. **REP. MUSGROVE** urged a DO PASS.

EXECUTIVE ACTION ON HB 717

{Tape: 5; Side: A; Approx. Time Counter: 6.8 - 10}

Motion: **REP. JACKSON** moved that HB 717 DO PASS.

Discussion:

REP. MALCOLM explained a similar bill to the Committee that was being carried by **REP. GALLIK**

Motion/Vote: **REP. MALCOLM** moved that HB 717 BE TABLED. Motion carried 14-2 with **REPS. BIXBY** and **SMALL-EASTMAN** voting no, by voice vote.

EXECUTIVE ACTION ON HB 683

Motion: **REP. JACKSON** moved that HB 683 DO PASS.

Discussion:

REP. SMITH said that he is afraid that this might end up in court.

REP. BALLANTYNE said that he is afraid that the people of Charlo might bring lawsuits if they do not get water.

REP. BIXBY said that this bill is not specific to Charlo and it opens opportunities for other water rights.

REP. PETERSON said that they should not speculate on litigation. There is a small town that needs water.

REP. WAITSCHIES said that he is in favor of this bill it gives a larger community the same opportunity that he had, the ability to drill a new well.

REP. JACKSON said that the risk of lawsuits is not that great.

REP. LENHART said that he concurred with **REP. JACKSON** and **REP. PETERSON**.

Vote: Motion that HB 683 DO PASS carried 12-4 with **REPS. BERGREN, BIXBY, SMALL-EASTMAN, and SMITH** voting no, by voice vote.

EXECUTIVE ACTION ON HB 676

Motion: **REP. LENHART** moved that HB 676 DO PASS.

Motion/Vote: **REP. LAMBERT** moved that HB 676 BE AMENDED. Motion carried 16-0, by voice vote.

Motion: **REP. LAMBERT** moved that HB 676 DO PASS AS AMENDED.

Discussion:

REP. WAITSCHIES said that he had a concern about having to get a permit for doing anything. **Krista Lee Evans** said that amendment just clarifies what a project is.

Vote: Motion that HB 676 DO PASS AS AMENDED carried 16-0, by voice vote.

EXECUTIVE ACTION ON HB 677

Motion: **REP. BALLANTYNE** moved that HB 677 DO PASS.

Motion/Vote: **REP. PETERSON** moved that HB 677 BE AMENDED. Motion carried 16-0, by voice vote.

Motion: **REP. PETERSON** moved that HB 677 DO PASS AS AMENDED.

Discussion:

REP. MALCOLM said that he has a concern with the words "administrative penalty," on line eight of page three.

REP. JACKSON said that he did not understand line ten on page three. **Krista Lee Evans** said that just says that there is a fine of \$10,000 per day.

REP. PETERSON asked John Bloomquist if the conservation districts wanted the words "administrative penalty." **John Bloomquist** said that he met with them and they said that they were okay with this language, and that it would be revisited.

REP. JACKSON said that these are excessive penalties.

REP. LENHART said that it says "not to exceed," which means that it could be less.

REP. PETERSON said that section one in dealing with fines, and penalties is not a new section, it is current law. This bill is just putting side boards on the penalty.

REP. WAITSCHIES said that before it was "upon conviction" and now it is by "administrative rule."

{Tape: 5; Side: B; Approx. Time Counter: 0 - 7.8}

REP. JACKSON said that he went through the 310 process and it was good.

REP. ANDERSON said that this puts stress on the volunteers that sit on the conservation districts.

Motion/Vote: **REP. JACKSON** moved that HB 677 BE TABLED. Motion failed 4-12 with REPS. JACKSON, RICE, STEINBEISSER, and WAITSCHIES voting aye, by roll call vote.

REP. RYAN said that it is important to remember that this bill had no opponents.

Vote: Motion that HB 677 DO PASS AS AMENDED carried 13-3 with REPS. ANDERSEN, JACKSON, and WAITSCHIES voting no, by voice vote.

EXECUTIVE ACTION ON HB 678

Motion/Vote: **REP. BERGREN** moved that HB 678 DO PASS. Motion carried 16-0, by voice vote.

EXECUTIVE ACTION ON HB 720

Motion: REP. LENHART moved that HB 720 DO PASS.

Motion: REP. PETERSON moved that HB 720 BE AMENDED.

Discussion:

REP. PETERSON said that he would like to offer a conceptual amendment to this bill that would in line 28 add the words "as determined under section two, and this would remove the fiscal note that is attached to this bill."

REP. BERGREN asked REP. PETERSON if he was afraid that the Department might not take long enough. REP. PETERSON said that he is afraid of the exact opposite, and that is the reason for the 30 days.

REP. SMALL-EASTMAN asked REP. PETERSON if he thought there should be a cap on it. REP. PETERSON that he could change the days from 30 to 90 days.

REP. JACKSON said that by changing the days from 30 to 90 there is still a fiscal note, and he would like to see it changed to 120 days.

Substitute Motion: REP. JACKSON made a substitute motion that HB 720 BE AMENDED.

Discussion:

REP. LAMBERT said that 180 days is already in statute.

Krista Lee Evans read what current law was to the Committee.

REP. JACKSON withdrew his substitute motion.

Vote: Motion that HB 720 BE AMENDED carried 16-0, by voice vote.

Motion: REP. PETERSON moved that HB 720 DO PASS AS AMENDED

Discussion:

{Tape: 6; Side: A; Approx. Time Counter: 0 - 1.6}

REP. WAITSCHIES said that this bill completely switches around the obligation.

REP. PETERSON said that before the agency can object they must provide facts and information, and that is the reason for this bill.

REP. LENHART said that the Committee should pass this out on to the House Floor.

Vote: Motion that HB 720 DO PASS AS AMENDED carried 13-3 with REPS. BERGREN, BIXBY, and WAITSCHIES voting no, by roll call vote.

EXECUTIVE ACTION ON HB 723

Motion: REP. SMITH moved that HB 723 DO PASS.

Discussion:

REP. LAMBERT said that she is very opposed to this bill because there is a real need for a citizen's board to intervene. She said that the petroleum tank release board should be kept.

Motion/Vote: REP. BERGREN moved that HB 723 BE AMENDED. Motion carried 16-0, by voice vote.

Motion: REP. BERGREN moved that HB 723 DO PASS AS AMENDED.

Discussion:

REP. STEINBEISSER said that he is against this bill, and there is a buffer that is needed between the DEQ and the citizens, because the DEQ does not have a good user friendly reputation.

REP. MALCOLM said that he is also against this bill.

REP. RYAN said that the board is working well, so the Committee should leave it alone.

Motion/Vote: REP. JACKSON moved that HB 723 BE TABLED. Motion carried 14-2 with REPS. BERGREN and SMITH voting no, by roll call vote.

ADJOURNMENT

Adjournment: 9:00 P.M.

REP. DIANE RICE, Chairman

LISA GALLAGHER, Secretary

DR/LG

EXHIBIT (agh42aad)